



# LICENSE ISSUANCE & GAME CHECK AGREEMENT

REVISED MARCH 2019

This Agreement by and between the Ohio Department of Natural Resources, Division of Wildlife, 2045 Morse Rd., Bldg. G, Columbus, OH 43229, hereinafter referred to as the "Division," and

\_\_\_\_\_  
BUSINESS NAME/CORPORATION

\_\_\_\_\_  
STREET ADDRESS

\_\_\_\_\_  
CITY

\_\_\_\_\_  
STATE

\_\_\_\_\_  
ZIP

hereinafter referred to as the "License Agent," is effective on the date of signature by the Director.

**WHEREAS**, the Division is responsible for the distribution and collection of revenues derived from the issuance of hunting and fishing licenses, stamps, permits, applications, and other products hereinafter referred to as "license system product(s)"; and

**WHEREAS**, section 1533.13 of the Ohio Revised Code (ORC) provides that the Chief of the Division may designate License Agents;

**NOW THEREFORE**, in consideration of the mutual benefits to be derived hereunder from the distribution of license system products and collection of revenues thereon upon the terms and conditions of this Agreement, subject to the laws of the state of Ohio and applicable orders, rules, and regulations of the Division, the Division authorizes the License Agent to issue license system products and collect fees thereon.

## CONTRACT TERMS TO BE EXCLUSIVE

This Agreement contains the sole and entire Agreement between the parties. Each of the parties has willingly entered into this Agreement.

It is agreed that no waiver or modification of this Agreement or of any of its parts shall be valid unless in writing and signed by all parties to this Agreement, with the exception of approved updates to the Appendices.

This Agreement contains Appendix A, Appendix B, Appendix C, and references Policy 40, which by reference are made a part of this Agreement. Any information submitted in writing by the License Agent to update any of the appendices will not affect the duties and performance requirements set forth within this Agreement.

## NO ASSIGNMENT OF AGREEMENT

The License Agent shall make no assignment or transfer of this Agreement or of any right, duty, or obligation of performance, in whole or in part, without the express written approval of the Division and may not use this Agreement or any right, duty, or obligation of performance under it as a condition of a sale. The sale or transfer of the License Agent's business voids this Agreement.

In the event of either a voluntary or involuntary transfer or sale of the License Agent's business, the License Agent shall provide written notice to the Division at least 30 days in advance of such transfer or sale.

## TERMINATION OF AGREEMENT

The parties agree that this Agreement may be terminated by the License Agent with notice, provided that the License Agent has fully remitted all fees held in trust to the Division.

The parties agree that the Division may terminate this Agreement, or eliminate certain License Agent sales locations from this Agreement at any time, due to a lack of need for continued services by the License Agent as a result of general changes in the Division's programs, as a result of low sales or for failure by the License Agent to meet the terms and conditions of this Agreement. The Division will review License Agent sales transaction data annually and any agent with low sales volume as determined by the Chief of the Division may be terminated. If the Division decides to terminate an agreement with a License Agent, the Division will provide thirty days written notice to the License Agent. The parties further agree that the Division may require that this Agreement be modified as a result of changes in Division programs or applicable laws, rules, and regulations.

If the License Agent fails to have any license system sales transactions for six months consecutively and the License Agent fails to provide the Division previous notice for the low sales period (e.g. seasonal business, temporary closure), the Division may terminate this agreement without notice. License Agents who have been terminated without notice may choose to reapply to be a License Agent.

When the Division notifies the License Agent that the Agreement is to be terminated or modified due to failure by the License Agent to meet the terms and conditions of this Agreement, the License Agent may request a conference with the Division's designee. At this informal conference, the alleged failure to conform shall be reviewed with the License Agent and the License Agent shall have the opportunity to refute or to explain the reasons for the alleged failure to conform. After the conference, the Division's representative may decide to continue the Agreement, place the License Agent on probation, require a cash bond, implement actions set forth in Policy 40, or confirm termination of this Agreement. The License Agent will be notified in writing of the Division's decision. Violation of the terms of any probation may result in termination of the Agreement without benefit of further conference. Such termination does not prevent the Division from pursuing any other remedy to which the Division is entitled by law or in equity or elsewhere under this Agreement.

License Agent relocation requires notification to the Division and does not necessarily grant a continuation of this agreement.

## **SEVERABILITY**

The laws of the State of Ohio shall govern this Agreement and any claims arising in any way out of this Agreement. Any provision of this Agreement prohibited by the law of Ohio shall be deemed void and of no effect; however, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Any litigation arising out of relating in any way to this Agreement or the performance hereunder shall be brought only in a court of competent jurisdiction in Franklin County, Ohio, and the License Agent hereby irrevocably consents to such jurisdiction.

## **TYPES OF LICENSE AGENTS**

The License Agent must declare the type of business and provide the required information in Appendix A, Appendix B, and Appendix C as required.

The following are the types of business from which the License Agent must declare and the required information for the agreement to be executed. The agreement will not be executed until all requirements are submitted.

- Sole Proprietorship: Complete Appendix A
- Corporation: Complete Appendix A. All subsidiaries (minimum of two) covered by this agreement must be identified in Appendix B.
- Partnership: Complete Appendix A. All partners of the License Agent must be identified in Appendix C.

## **CONFIDENTIALITY OF LICENSE SYSTEM CUSTOMER INFORMATION**

The License Agent understands and acknowledges that license system customers will disclose to the License Agent both personal and confidential data, materials, and information when seeking license system products. The License Agent promises and assures that data, material, and information gathered by or disclosed to the License Agent in the License Agent's performance of this Agreement will not be disclosed to others, discussed with third parties, or otherwise distributed or utilized by the License Agent or any representative or employee of the License Agent. All data received from license system customers, including Social Security numbers and driver license numbers, shall be kept confidential. Any breach of this provision shall result in immediate termination of this Agreement.

## **DUTIES OF THE LICENSE AGENT**

1. The License Agent agrees to provide services to the Division for the sale and issuance of license system products in conformity with this Agreement; any applicable laws; all Division rules and regulations; chapters 1531 and 1533 of the ORC and official directives to the License Agent issued in writing by the Division. Such sales shall be made only in the presence of the license system customer for license system products and in and only in the locations identified in the License Agent Application, which application is incorporated by reference as if fully set out herein.
2. The License Agent shall retain a fee of four percent (4%) for each license system product sold priced twenty-five dollars (\$25.00) or greater, and one dollar (\$1.00) for each license system product sold priced less than twenty-five dollars (\$25.00). No such fee is applicable when issuing zero cost license system products or the Ohio Conservation Card. The License Agent shall not add sales tax, surcharges, credit card usage fees, convenience fees, or service charges of any kind. Failure to comply may result in termination of this agreement.
3. The License Agent agrees to sell or issue all license system products that it is authorized to offer by this Agreement at the prices established by applicable provisions of the ORC. The License Agent further agrees to perform all electronic game check transactions and other transactions as prescribed by the Division.
4. The License Agent agrees that it will not require the license system customer to purchase other goods or services as a condition of the sale of a license system product or the completion of a game check transaction.
5. The License Agent agrees to question the license system customer in order to comply with applicable laws and regulations and will completely and accurately collect and record the responses provided by the license system customer in the license system.
6. The License Agent will verify, to the best of its ability, that the license system customer information presented is true and correct and will not knowingly issue a license or permit based on false or misleading customer information.

7. The License Agent will notify license system customers of their obligation to sign their full name in the space provided on each license/permit form.
8. The License Agent agrees to comply with all federal and state laws, rules and regulations involving nondiscrimination on the basis of race, color, religion, sex, age, disability, military status, national origin, or ancestry and all laws and regulations concerning employment and wages. The License Agent further agrees to comply with all federal and state laws, rules and regulations administered by the Division and all pertinent provisions of section 125.111 of the Ohio Revised Code (Affirmative Action).
9. The License Agent agrees to provide, at no expense to the Division, the necessary internet compatible electronic sales device herein after referred to as "equipment." The License Agent also agrees to provide a printer (laser printer recommended) and internet browser software.
  - a. Internet browsers produced by Microsoft (I.E and Edge), Mozilla (Firefox), and Google (Chrome) are supported. Other browsers may function, but are not tested or supported by the license system vendor.
    - i. The browser's current version and version immediately prior will be fully supported.
10. The License Agent agrees to notify the Division immediately upon failure of their equipment. The License Agent must take the necessary steps to repair or replace the equipment within a reasonable amount of time. The Division reserves the right to terminate a License Agent when it fails to meet this requirement.
11. The License Agent is responsible for purchasing toner and maintaining replacement supplies for license printing.
12. The License Agent shall not use any supplied license paper for other than the intended purpose. The License Agent must notify the Division at least 5 days in advance of the need for additional supplies; however, under no circumstances will the Division incur any liability for failure to provide these supplies.
15. The License Agent agrees to keep the equipment clean and in good working order, so as to make license system products available to the public on demand including taking precautions to prevent malicious software and computer viruses.
16. A working internet connection is necessary to process transactions. In the event that the License Agent experiences communication problems at the approved location, it is the sole responsibility of the License Agent to remedy those problems within a reasonable time period. Failure to comply could result in termination of this agreement. The Division will neither pay for nor subsidize the cost of an internet connection.
17. The License Agent must place the equipment, printer, materials and signage within sight of a customer service area or within an appropriate location (sporting good or outdoor recreation department).
18. The license agent will create and maintain user accounts in the license sales system for their staff.
  - a. Trained License Agent representatives will maintain and reset user passwords as required.
  - b. The License Agent agrees to disable user accounts upon separation of the user from employment with the License Agent.
19. The License Agent shall direct license system customers raising disputes, grievances, denials or revocations regarding a hunting or fishing license or other license system product to contact the Division immediately regarding the process for administrative review of a Division action.

## **FINANCIAL PERFORMANCE**

1. The License Agent agrees to hold in trust for the Division all fees collected from the sale of license system products except those License Agent fees provided by law or authorized by the Division.
2. The License Agent agrees to remit all funds in a bank account maintained by the License Agent, at a frequency set by the Division of at least every seven (7) calendar days unless otherwise specified or necessitated.
3. The License Agent authorizes the Division or its representatives to make variable withdrawals or adjustments from or into the bank account identified by the voided check attached to the Application For Appointment as License and Game Check Agent (Appendix A), which is incorporated by reference as if fully set out herein.
  - a. The voided check must be from an institution which is a member of the Automated Clearinghouse Association, and authorizes the financial institution to charge such withdrawals or adjustment to the License Agent's listed account.
  - b. The amount of the withdrawals or adjustments will equal the amount due from the sale of license system products except the License Agent fees provided by law or authorized by the Division.
  - c. Adjusting entries and attempts to collect on a non-transfer of funds are authorized.
  - d. It is agreed that these withdrawals and adjustments will be made electronically under the rules of the Automated Clearinghouse Association.
  - e. This authorization remains in effect until terminated or the Division confirms a change of account.
4. The License Agent certifies that it is authorized to make all necessary deposits, withdrawals, adjustments and other transactions related to the account identified by the voided check.

5. The License Agent agrees to be liable for all transactions conducted under its account whether made by the License Agent, the License Agent's representative, or an unknown party.
6. The License Agent shall be responsible for, and liable to the Division for, receipt, protection and transfer of all proceeds from the sale of licenses and permits regardless of the manner of payment, and for all losses incurred due to theft, credit card fees and insufficient funds checks.
7. When a void of a license sale transaction is required, the License Agent must void the transaction in the license system within the void period provided by the Division. The License Agent will be financially responsible for all transactions after the void period.
8. The License Agent agrees to abide by the requirements of the Termination Policy for Non-Transfer of Funds (Policy 40) which is incorporated by reference as if fully set out herein, and by any subsequent modifications to the Policy.
9. The License Agent acknowledges that it may be required to submit to an audit of funds handled under this agreement. Any such audit shall be conducted in accordance with guidelines specified by the Division.
10. The License Agent acknowledges that it is required to be current in payment of its taxes, permit fees, or other statutory, regulatory or judicially required payments to the State of Ohio or the United States government. The State of Ohio may perform status inquiries on such payments at any time. If the State of Ohio finds that the License Agent is in arrears on any such payments, this agreement may be suspended or terminated until payments are made current.
11. The License Agent agrees to review all reports made available by the Division and to notify the Division within five business days of discovery of any discrepancy. The License Agent will have 120 calendar days from the date of any transaction to discover discrepancies or the reports will be deemed true and accurate.
12. The License Agent agrees to pay a non-transfer of funds (NTF) fee as set forth in Policy 40, as well as, any fees added by the Attorney General's office for collection of unpaid fees.

#### **DIVISION SUPPORT SERVICES:**

1. The Division will create an account in the license system for each License Agent location. The account will be password protected and only the license agent and trained representatives will be provided access credentials.
2. The Division will log all sales in the license system completed by the License Agent. These logs will be provided upon request or through reports available in the license system.
3. The Division will provide paper stock on which license system products may be printed. The License Agent may choose to supply its own paper for the printing of licenses.
4. The Division will maintain a support desk to answer regulatory questions from License Agents and other constituencies.
5. The Division will schedule system maintenance during non-peak selling periods and provide advanced notice of planned outages whenever possible. The Division reserves the right to conduct critical repairs immediately and without notification.
6. The Division or its Contractor shall provide training as follows:
  - a. Train the Trainer: A single representative of the License Agent per business location will be trained. It will be the responsibility of trained representative to ensure all users of the license system at the business location are trained.
  - b. Provide training materials and updated policies as needed. All training materials will be available from within the license system.
  - c. Provide a toll free telephone Help Desk service the License Agent can call for license system operation questions or supplemental training.
7. Provide copies of informational materials. Information materials may include:
  - a. Signage notifying the public of the availability of Wildlife license sales at the location.
  - b. Fishing regulations and hunting & trapping regulations for distribution to any customer whether or not they purchase any license system product
  - c. Fliers or other materials to assist customers in selecting appropriate license system products.
8. List the License Agent as an authorized license vendor on the Division internet site.
9. Neither the Division nor its contractor is responsible for providing equipment support services of any kind.

#### **GOOD FAITH PERFORMANCE**

The License Agent agrees that the information contained in the License Agent Application is complete and accurate at the time this Agreement is made. The License Agent further agrees to notify the Division promptly when any of the information in the application changes. The License Agent agrees to act in good faith in the performance of all obligations under this Agreement.

**LIABILITY**

The License Agent shall save, hold harmless and indemnify the State of Ohio, Ohio Department of Natural Resources, Division of Wildlife and their officers, employees and agents against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of any person or persons and for the loss or damage to any property resulting from or arising out of the use, service, operation or performance of its responsibilities under this Agreement and resulting from or arising out of the acts or omissions of the License Agent, or any of its employees, agents or representatives.

**MISCELLANEOUS PROVISIONS**

The License Agent agrees that, in its capacity as a License Agent to sell license system products, the License Agent is acting on behalf of the State of Ohio, Ohio Department of Natural Resources, Division of Wildlife. However, the License Agent is acting as an independent contractor and not as an employee of the Division.

The License Agent certifies that neither it nor its employees are public employees of the Division under federal and state law for tax, retirement deduction, and Workers' Compensation purposes and that the License Agent carries Workers' Compensation coverage.

The License Agent agrees and represents that all persons involved in the performance of work under this Agreement are properly qualified, trained, and competent to lawfully perform the work.

The License Agent affirms that it has all of the approvals, certifications, licenses or other qualifications to conduct business in Ohio and all are current. If for any reason the License Agent becomes disqualified from conducting business in Ohio during the term of this Agreement, the License Agent shall both immediately notify the Division in writing and cease performance of work.

**ETHICS**

The License Agent, by signature on this document, certifies that it: (i) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (ii) will take no action inconsistent with those laws. The License Agent understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

**TIME OF THE ESSENCE**

Time is of the essence in the performance of each and every term of this Agreement.

**TERM**

The term of this Agreement shall commence upon the effective date of this Agreement and end upon written notice from either party, or on December 31st of each year with an automatic renewal unless written notice of termination has been submitted by either party, notwithstanding other provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties have affixed their respective signatures, the date of execution being the date upon which this Agreement is approved by the Director of the Ohio Department of Natural Resources as indicated by the Director's signature, provided that the Director or the Director's Designee signs this Agreement after it is signed by the License Agent. Obligations of the state are subject to the provisions of section 126.07 of the Ohio Revised Code.

**STATE OF OHIO**

Department of Natural Resources

\_\_\_\_\_  
KENDRA S. WECKER  
CHIEF, DIVISION OF WILDLIFE  
As Designee For: Mary C. Mertz, Director

\_\_\_\_\_  
DATE

**LICENSE AGENT**

\_\_\_\_\_  
BUSINESS NAME/CORPORATION

\_\_\_\_\_  
SIGNATORY (PRINTED)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Please indicate one:

- Owner       Partner       Authorized Individual
- President       Vice-President

The power of attorney, corporate resolution or other corporate documentation for signatory authority is attached.